

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DONALD RAY WELLS,

CV. 05-474-PA

Petitioner,

ORDER TO DISMISS

v.

UNITED STATES OF AMERICA,

Respondent.

PANNER, District Judge.

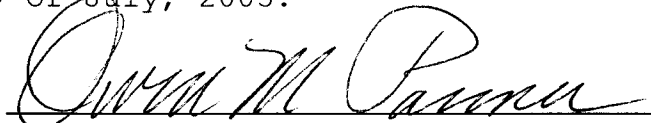
This action comes before the court on respondent's Motion to Dismiss (#4). Petitioner filed the current action on April 4, 2005, challenging the validity of his incarceration. Respondent asks the court to dismiss the case on the basis that this court lacks jurisdiction. Petitioner has not responded to the Motion to Dismiss.

Petitioner has not named the proper respondent in this case. "The proper respondent in a federal habeas corpus petition is the petitioner's 'immediate custodian.'" Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992). Because petitioner fails to

name his warden as the respondent to this action, this court lacks personal jurisdiction in this matter. Even if petitioner had named his immediate custodian as the respondent to in this action, both petitioner and his warden are located in California. Accordingly, this court is without jurisdiction to hear this case. The Petition for Writ of Habeas Corpus is therefore DENIED, and this case is DISMISSED.

IT IS SO ORDERED.

DATED this 19 day of July, 2005.


Owen M. Panner
United States District Judge